

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MALACHI FINANCIAL PRODUCTS, INC. and  
PORTER B. BINGHAM,

Defendants.

C.A. No. 3:18-cv-1-HSO-LRA

**FIRST STATUS REPORT OF THE SECURITIES AND EXCHANGE  
COMMISSION ON SETTLEMENT TALKS WITH DEFENDANTS**

The Securities and Exchange Commission filed its Complaint in this matter on January 2, 2018 and perfected service of process on the two defendants on January 11, 2018. Answers were due to be filed in this matter on February 1, 2018. To date, no answer or responsive pleading has been filed.

On or about January 26, 2018, undersigned counsel for the Commission was contacted by William G. Leonard, Esq. of Taylor English Duma LLP in Atlanta, Georgia, who represented the defendants during the Commission's investigation into this matter. In that initial 2018 conversation and in conversations since then, Mr. Leonard has advised the staff that his clients are interested in pursuing settlement discussions with the Commission. Mr. Leonard has also advised the undersigned that he has no intention of entering an appearance as counsel in this litigation, and that has not been retained by the defendants to do so. Settlement talks have been ongoing between the parties since late January 2018, however no agreement has been signed as of the filing of this Status Report.

In conjunction with the settlement talks, the Commission, upon the request of defense counsel, advised Mr. Leonard that it will refrain from seeking Default Judgments against the defendants for so long as it appears settlement discussions are proceeding in a positive fashion and appear to be leading to a settlement. At this time, the parties have progressed to the point where written consents and final judgments have been drafted for both defendants and submitted to Mr. Leonard on February 2, 2018, for discussions with his clients. At this time, no settlement offers have been signed by the defendants. If settlement offers are signed and submitted by Defendants Malachi and Bingham, the Commission will promptly advise the Court.

Any written settlement offers submitted by the defendants would be required to be submitted to the Securities and Exchange Commission in Washington, DC, and would have to be accepted by that body before they can be presented to the Court for consideration or the signing of the final judgments. This process typically takes 60 to 75 days after receipt of signed settlement offers from the defendants.

Undersigned counsel is very mindful of the Commission's prosecutorial obligation in this matter and will promptly seek entries of default against the defendants if it appears that settlement talks are not progressing to a productive end. In the meantime, the Commission respectfully requests that the Court allow a reasonable amount of time for the parties to determine whether this matter can be resolved by settlement. The Commission will promptly advise the Court on the progress of settlement.

RESPECTFULLY SUBMITTED,

/s/Edward G. Sullivan  
Edward G. Sullivan  
Senior Trial Counsel  
Georgia Bar No. 691140

/s/Justin Delfino  
Justin Delfino  
Senior Counsel  
Georgia Bar No. 570206

COUNSEL FOR PLAINTIFF  
U. S. SECURITIES AND EXCHANGE COMMISSION  
950 East Paces Ferry Road, N.E., Suite 900  
Atlanta, Georgia 30326  
(404) 842-7612 (Sullivan)  
(404) 942-0698 (Delfino)  
[sullivan@sec.gov](mailto:sullivan@sec.gov)  
[delfinoj@sec.gov](mailto:delfinoj@sec.gov)

CERTIFICATE OF SERVICE

I hereby certify that on the 13<sup>th</sup> day of February, 2018, I electronically filed the foregoing First Status Report of the Securities and Exchange Commission On Settlement Talks With Defendants with the Clerk of Court using the CM/ECF system, and in addition have served the Defendants by first class mail with sufficient postage addressed as follows:

Porter B. Bingham  
Malachi Financial Products, Inc.  
260 Flowering Spring Trail  
Roswell, GA 30075

This 13<sup>th</sup> day of February, 2018.

/s/Edward G. Sullivan  
Edward G. Sullivan

COUNSEL FOR PLAINTIFF  
U. S. SECURITIES AND EXCHANGE COMMISSION  
950 East Paces Ferry Road, N.E., Suite 900  
Atlanta, Georgia 30326  
(404) 842-7612  
sullivan@sec.gov